

Congress of the United States
House of Representatives
Washington, DC 20515-0545

April 29th, 2019

Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Commissioner Rettig:

I write to raise concerns about Free File Alliance (FFA) companies misdirecting eligible taxpayers away from the Internal Revenue Service (IRS)'s Free File program and instead steering those families to their companies' expensive products.

According to reporting from the non-profit investigative journalism outlet *ProPublica*, at least two companies participating in the IRS's Free File program: Inuit's TurboTax and H&R Block used website code that blocked search engine queries by taxpayers seeking access to the Free File program.¹

Instead, eligible taxpayers looking to file their taxes for free—as an option mandated by Congress—would need to comb through complex websites to access free filing. These artificial barriers run contrary to the goals of the Free File program and are designed to steer families into paying for services that rightfully should be free of charge to them as taxpayers.

Misdirection like this is why only 3% of eligible taxpayers typically use the Free File program.² As a result of upselling and marketing, families end up spending an estimated billion dollars a year in unnecessary filing fees.³

I ask that the IRS immediately investigate the website code used by these companies and determine if it is consistent with the contract these companies signed with the IRS. Further, I ask that the IRS investigate whether such code is designed to steer customers away from free filing and into the companies' proprietary products.

¹ Justin Elliott, "TurboTax Deliberately Hides Its Free File Page From Search Engines," *ProPublica* (April 2019) at: <https://www.propublica.org/article/turbotax-deliberately-hides-its-free-file-page-from-search-engines>

² Tik Root, "Why Are Millions Paying Online Tax Preparation Fees When They Don't Need To?" *ProPublica* (June 2018) at: <https://www.propublica.org/article/free-file-online-tax-preparation-fees-intuit-turbotax-h-r-block>

³ *Id.*

Should the IRS find *ProPublica*'s reporting to be accurate, I ask that the IRS require refunds for all customers that paid for tax filing services that were otherwise eligible for free filing. Customers should be affirmatively contacted by the companies and should not have to call or write to FFA companies to get their money back. Second, the IRS should require FFA companies to immediately amend their website code to allow search engine queries to easily point to Free File services. Third, the IRS should require that companies develop and submit to Congress for review an outreach and marketing campaign such that the Free File services will be better-promoted and more easily understood in the 2019 tax year.

I have spent my career as a consumer protection attorney fighting against these types of abuses; I know how misdirection like this can strip families of money that is desperately needed to pay for rent, food, school supplies, prescription drugs, and other critical needs. This misconduct is particularly concerning in light of FFA companies' recent lobbying against the IRS creating a Free File portal of its own.⁴ I ask that the IRS respond to my request by May 15th, 2019.

Sincerely,

A handwritten signature in black ink that reads "Katie Borten". The signature is fluid and cursive, with "Katie" on the left and "Borten" on the right, connected by a horizontal line.

⁴ Id.